

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

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ELAINE L. CHAO, Secretary of Labor,  
United States Department of Labor

Plaintiff

v.

CIVIL ACTION  
FILE NO. 05-10092-PBS

JOSEPH P. ZOPPO,  
Trustee of the I/O Desktop Specialists, Inc.  
Retirement Plan

Defendant

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CONSENT AGREEMENT AND ORDER

Defendant Joseph P. Zoppo and Plaintiff Elaine L. Chao, Secretary of Labor, United States Department of Labor (the "Secretary"), have agreed to resolve all matters in controversy in this action (with the exception of any penalty that the Department of Labor assesses pursuant to ERISA §502(l)), and said parties do now consent to entry of a Consent Agreement and Order by this Court in accordance herewith.

Upon consideration of the record herein, and as agreed to by the parties, the Court finds that it has jurisdiction to enter this Consent Agreement and Order.

Defendant Zoppo neither admits nor denies the allegations of the Complaint.

WHEREAS, on June 6, 2002, Defendant Zoppo filed a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code in United States Bankruptcy Court in the District of Massachusetts, In re: Joseph P. Zoppo, Case No. 02-14836(JNF);

WHEREAS, on January 30, 2003, the Secretary filed a Complaint to Have Debt Determined to be Non-Dischargeable pursuant to 11 U.S.C. §523(a)(4) in relation to monies owed to the I/O Desktop Specialists, Inc. Retirement Plan a/k/a I/O Retirement Plan (hereinafter, the "Plan") during the period of time that Mr. Zoppo served as a Trustee of the Plan;

WHEREAS, on September 16, 2003, Judge Feeney entered an Order resolving the Adversary Proceeding, which determined that the amount of \$9,726 plus interest in the amount of \$690 was nondischargeable debt pursuant to 11 U.S.C. §523(a)(4);

WHEREAS, on November 4, 2003, the Chapter 7 Trustee filed a Final Report of No Distribution;

WHEREAS, the Court has entered an Order dated April 12, 2005 appointing an Independent Fiduciary to distribute the Plan assets and terminate the Plan, and

WHEREAS, Defendant and Plaintiff having agreed to the terms of this Consent Agreement and Order, subject to the approval by the Court, and with due consideration and being fully advised of the premises,

IT IS HEREBY AGREED AND DECREED THAT:

1. Defendant Zoppo is hereby permanently enjoined from the date of entry of this Consent Agreement and Order from engaging in any action in violation of the provisions of §404 and §406 of ERISA, 29 U.S.C. §1104 and §1106.
2. Defendant Zoppo is hereby enjoined from acting in a fiduciary capacity within the meaning of ERISA §3(21), 29 U.S.C. §1002(21) with respect to any ERISA-covered employee benefit plan for a period of three years from the entry of this Consent Agreement and Order.
3. Defendant Zoppo shall pay \$8,386.00 within sixty (60) days of entry of this Order to the Plan for allocation to two Plan Participants, Matt Lopiano and Robert Zoppo, in proportion to the

amounts withheld from their paychecks, but not forwarded to the Plan as set forth in the Bankruptcy Court's Order dated September 16, 2003 and attached to the Complaint filed in this action. Such payment will be made to the Plan and delivered to the Office of the Solicitor, United States Department of Labor, JFK Federal Building, Room E-375, Boston, MA 02203, to the attention of Attorney Marjorie A. Butler.

4. No portion of the payment made by Defendant Zoppo shall be credited to any account other than those of Matt Lopiano and Robert Zoppo.

5. This Consent Agreement and Order is not binding on any government agency except the Department of Labor.

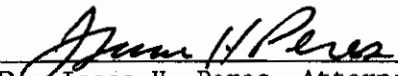
6. Each party shall bear its own fees, costs and expenses in connection with this action.

The Court shall maintain jurisdiction over this matter for the purpose of enforcing this Consent Agreement and Order.

IT IS SO ORDERED THIS 18 DAY OF July, 2005

  
United States District Court Judge Patti B. Saris

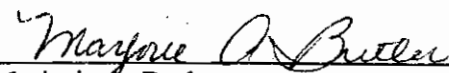
Defendant Joseph P. Zoppo hereby moves for entry of this Judgment:

 Date: 6-24-05  
By: Isaac H. Peres, Attorney for Joseph P. Zoppo  
50 Congress Street  
Boston, MA 02109  
(617) 722-0094

Plaintiff Elaine Chao, Secretary of Labor, hereby moves for entry of this Consent Agreement and Order:

Howard M. Radzely  
Solicitor of Labor

Frank V. McDermott, Jr.  
Regional Solicitor

  
\_\_\_\_\_  
Marjorie A. Butler  
Attorney

Date: 7/2/05

U.S. Department of Labor  
Attorneys for Plaintiff

Post Office Address:  
Office of the Solicitor  
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